

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

DEMOND EDWARD HARRISON, SR.

PLAINTIFF

v.

CAUSE NO. 1:14CV407-LG-RHW

**DR. R. WOODALL; WILLIAM
DARR, JR.; and RICHARD LEWIS**

DEFENDANTS

**ORDER ADOPTING PROPOSED
FINDINGS OF FACT AND RECOMMENDATION
AND DISMISSING CASE WITHOUT PREJUDICE**

BEFORE THE COURT is the Proposed Findings of Fact and Recommendation [30] entered by United States Magistrate Judge Robert H. Walker, which proposes that this lawsuit should be dismissed without prejudice for failure to prosecute. Demond Edward Harrison, Sr., did not file a response in opposition to the Proposed Findings of Fact and Recommendation, and the deadline for doing so has expired. After reviewing the record in this matter and the applicable law, the Court finds that the Proposed Findings of Fact and Recommendation [30] should be adopted as the opinion of this Court and this lawsuit should be dismissed without prejudice.

DISCUSSION

Harrison filed this pro se prisoner civil rights lawsuit, alleging that he received inadequate medical care for an injury that was caused by a dangerous condition at the South Mississippi Correctional Institution. He was granted permission to proceed in forma pauperis. After Harrison was released from prison, Judge Walker scheduled a screening hearing to take place on August 12, 2015, at

10:00 a.m., and sent a copy of the notice of hearing to Harrison's address of record. However, Harrison did not appear at the hearing. As a result of Harrison's failure to appear, Judge Walker recommends that this lawsuit should be dismissed for failure to prosecute. A copy of Judge Walker's Proposed Findings of Fact and Recommendation was sent to Harrison, but he did not file an objection.

Where no party has objected to the Magistrate Judge's proposed findings of fact and recommendations, the Court need not conduct a *de novo* review of it. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only satisfy itself that there is no clear error on the face of the record. *Douglass v. United Serv. Auto Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996).

Having conducted the required review, the Court finds that Judge Walker's Proposed Findings of Fact and Recommendation is neither clearly erroneous nor contrary to law. This Court has authority to dismiss an action for the plaintiff's failure to prosecute under Fed. R. Civ. P. 41(b), and under its inherent authority to dismiss the action sua sponte. *See Link v. Wabash R.R.*, 370 U.S. 626, 630-31 (1962); *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988). The Court must be able to clear its calendar of cases that remain dormant because of the inaction or dilatoriness of the party seeking relief, so as to achieve the orderly and expeditious disposition of cases. *See Link*, 370 U.S. at 629-30. Harrison has not filed any pleadings or otherwise communicated with this Court in over seven

months. He did not appear at a scheduled hearing in this matter, and he did not object to Judge Walker's recommendation that this case should be dismissed. It is apparent that Harrison has abandoned his lawsuit. Therefore, the Court finds that the Proposed Findings of Fact and Recommendation entered by Judge Walker should be adopted as the opinion of this Court and this case should be dismissed without prejudice.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Proposed Findings of Fact and Recommendation [30] entered by United States Magistrate Judge Robert H. Walker is **ADOPTED** as the opinion of this Court. This lawsuit is hereby **DISMISSED WITHOUT PREJUDICE** for failure to prosecute. A separate judgment will be entered pursuant to Fed. R. Civ. P. 58.

SO ORDERED AND ADJUDGED this the 31st day of August, 2015.

s/ Louis Guirola, Jr.
LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE